

DEPARTMENT OF INDUSTRIAL RELATIONS

UPDATED INFORMATIVE DIGEST

FOR PREVAILING WAGE HEARING REGULATIONS

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CALIFORNIA CODE OF REGULATIONS, TITLE 8, CHAPTER 8, SUBCHAPTER 6,

SECTIONS 17201 through 17270.

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## UPDATED INFORMATIVE DIGEST

Stats. 2001, Chapter 804 (SB 588), which becomes effective on January 1, 2002, adds section 1771.2 to the Labor Code to authorize a Joint Labor-Management Committee to bring a direct action in court against an employer who fails to pay prevailing wages as required by state law. This provides a new and distinct remedy for a Joint Labor-Management Committee that might otherwise seek to intervene in a contractor or subcontractor's appeal (from an Assessment or Notice of Withholding of Contract Payments) under Labor Code §1742 and these regulations.

The Director has made the following substantive changes to the regulations originally proposed in the Notice of Proposed Action:

*Section 17202 [Rule 02]* includes two additional definitions for the terms “Joint Labor-Management Committee” and “Rule” as those terms are used in these regulations.

*Section 17208 [Rule 08]* is being adopted in the form proposed as Option A with a new subpart (c) extending intervention rights to an employee, union, or Joint Labor-Management Committee whose complaint led to the Assessment or Notice at issue in the review proceeding. Other language was added to clarify that this Rule provides the only basis for intervening in one of these cases, that the Hearing Officer may limit the manner and extent of an intervenor's participation, and that a person need not seek intervention as a condition for pursuing other remedies that may be available to that person.

*Section 17212 [Rule 12]* was modified to include a requirement that attorneys and authorized representatives identify the client on whose behalf a brief or other written communication is submitted.

*Section 17230 [Rule 30]* was reorganized and amended to provide two exceptions to an otherwise strict policy against continuances – (1) continuances of 30 days or less that are joined in by all the parties, and (2) continuances requested by a contractor or subcontractor seeking review who did not wait for the full 60 days available to file the Request for Review.

*Section 17245 [Rule 45]* was amended to specify that prevailing wage determinations, precedential coverage decisions, and wage data studies and reports issued by the Division of Labor Statistics and Research are among the items of which the Hearing Officer or Director may take official notice.

*Section 17262 [Rule 62]* was amended to permit (but not require) court review petitions to be served on the Director and Labor Commissioner respectively by serving the offices of the Hearing Officer and the Labor Commissioner's attorney in the review proceeding.

*Section 17264 [Rule 64]* was added to disclose how the Director intends to respond to court petitions and to specify how a party may request the Director to take an active role in a particular case.

Except as set forth above, there are no other changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.